

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA
Criminal No. 06-209(DSD/FLN)

United States of America,

Plaintiff,

v.

ORDER

Richard Anthony Balsimo,

Defendant.

Timothy C. Rank, United States Attorney's Office, 300 South 4th Street, Suite 600, Minneapolis, MN 55415, counsel for plaintiff.

F. Clayton Tyler, Esq. and F. Clayton Tyler, P.A., 331 2nd Avenue South, Suite 230, Minneapolis, MN 55401, counsel for defendant.

This matter is before the court upon defendant Richard Anthony Balsimo's motion to modify his sentence to time served. On June 27, 2016, the court sentenced Balsimo to twelve months' imprisonment for multiple violations of his supervised release. Balsimo is currently being held in Sherburne county jail due to pending state criminal charges. Balsimo states that he is unable to take advantage of programs offered by the Bureau of Prisons (BOP) because his state charges prevent him from being placed into BOP custody. He argues that the court should modify his sentence to time served so that he can take advantage of a drug treatment program. Although the court encourages Balsimo to seek treatment when it becomes available, his continued custody for state criminal charges is not a ground to mitigate his punishment for violations

of supervised release.

Accordingly, **IT IS HEREBY ORDERED** that the motion to modify sentence [ECF No. 133] is denied.

Dated: November 9, 2016

s/David S. Doty
David S. Doty, Judge
United States District Court